Evaluating the Impacts of Eliminating Prosecutorial Requests for Cash Bail

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Abstract

Recent criminal justice reform efforts have focused on electing progressive prosecutors to implement change, such as the reduction of cash bail as a requirement for pretrial release. However, critics worry that removing cash bail will decrease accountability and increase failure-to-appear in court. We test this by looking at the effects of the No-Cash-Bail reform policy initiated by Philadelphia's recently elected District Attorney, Larry Krasner. Under this policy, the DA's office stopped requesting cash bail for defendants charged with a large variety of different offenses, both misdemeanor and felony. This policy led to an immediate 23% increase (12 percentage points) in the fraction of eligible defendants released with no monetary or other conditions (ROR), and a 22% (5 percentage points) decrease in the fraction of defendants who spent at least one night in jail, but no detectable difference for longer jail stays. The main effect of this policy was therefore to reduce the use of collateral to incentivize court appearance. In spite of this large decrease in the fraction of defendants having monetary incentives to show up to court, we detect no change in failure-to-appear in court or in recidivism, suggesting that reductions in the use of monetary bail can be made without significant adverse consequences. These results also demonstrate the role of prosecutors in determining outcomes over which they have no direct authority, such as setting bail.

1 Introduction

Prosecutors are thought to hold a substantial amount of power within the criminal justice system. They make important discretionary decisions throughout the proceedings: they choose the initial charge, they make bail requests, they can add or subtract charges that carry mandatory minimums, they make evidence more or less accessible for discovery, they can offer or reject plea deals, and so on. Approximately 95 percent of convictions in federal and state courts are resolved by a defendant pleading guilty (Reaves, 2013), so juries seldom act as a check on prosecutors. Criminal justice reform efforts have recently mobilized to elect "progressive" prosecutors: district attorneys who run on a platform of change.[1] One common reform initiative championed by progressive prosecutors is the reduction or elimination of cash bail as a condition of pretrial release. Reformers argue that cash bail entails discrimination on the basis of wealth, and results in low-risk defendants sitting in jail due to poverty. Given that pretrial detainees account for 1/5 of the entire incarcerated population in the United States and the majority of jail populations (Walmsley, 2014), such reforms could have substantial impact.

Eliminating cash bail, however, could come with unwanted side effects. The cash deposit is designed to incentivize appearance in court. With no "skin in the game" defendants may fail to appear in court, thus imposing costs on both the courts and the police who are tasked with retrieving them. Furthermore, critics worry that releasing more arrestees without imposing more supervision or other alternatives to incarceration could result in an increase in pretrial crime. Several recent papers have shown long-term negative effects of pretrial detention on defendant outcomes (Gupta et al., 2016; Heaton et al., 2017; Leslie and Pope, 2017; Dobbie et al., 2018; Stevenson, 2018b), and racial disparities in bail amounts and ability to post bail (Stevenson, 2018a). However, there is little empirical work on the possible negative consequences of rolling back pretrial detention and monetary bail.

In this paper, we present some of the first causal evidence of the effect of reducing reliance on cash bail on court compliance and recidivism. We focus on the No-Cash-Bail policy implemented by Philadelphia's recently elected "progressive" District Attorney, Larry Krasner. On February 21st, 2018, DA Krasner declared a new policy under which the DA's office would no longer seek cash bail for defendants charged with a wide range of offense categories, both misdemeanor and felony. While DA Krasner was elected on a liberal agenda, the exact nature and timing of his different reforms was unknown. We argue that the announcement of the No-Cash-Bail reform created a random shock in the bail process; in other words, that the only relevant difference

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[1]See e.g. Larry Krasner (Philadelphia), Kim Ogg (Houston), Kim Fox (Chicago), Rachael Rollins (Boston), Marilyn Mosby (Baltimore).

between cases initiated immediately before versus immediately after was the change in the DA's bail policy. We use regression discontinuity to evaluate sharp changes to pretrial outcomes that occurred at the time the No-Cash-Bail policy was implemented, and a difference-in-differences approach to compare pretrial outcomes across case types that were/were not eligible for the reform.

We first explore whether this policy changed bail amounts and detention rates. We find that it resulted in an immediate 23% (12 percentage point) increase in the fraction of eligible defendants who are released on their own recognizance (ROR), or released without any monetary bail or other supervisory conditions. This is notable, since bail decisions are made by magistrates who work for the judiciary, not for the prosecutor's office. It is not immediately apparent that a unilateral change initiated by the DA would affect the magistrates' bail decisions at all. We find that the new policy led to a 5 percentage point decline in the fraction of eligible defendants who spend at least one night in jail but no statistically significant change in the fraction who spend a week or more in jail. The policy had less of an impact on detention rates than ROR because some of those who were released on recognizance as a result of the new policy would have otherwise been released after the payment of monetary bail, or on unsecured or supervised bail conditions. We find that most of the change comes from a decline in the use of monetary bail in amounts of $5000 or less: a 7 percentage point, or 41% relative decrease.[2]

Our results suggest that the main policy impact of the No-Cash-Bail reform was to release more defendants without monetary conditions, with modest effects on pretrial detention. This isolated effect, in turn, gives us an opportunity to determine how monetary bail impacts court appearances and offending. We look at changes in several outcomes during the four months after the initial bail hearing: failing to appear court (FTA); being charged for a new offense; and being charged for a new serious offense. We find no evidence that any of these outcomes got worse when defendants no longer had monetary bail or other conditions of release. These results demonstrate that monetary bail can be replaced by release on recognizance for a sizeable number of defendants with no detectable impacts on non-appearance or pretrial crime.

This paper is one of the first to directly assess the effects of cash bail on court compliance and offending, and to evaluate a "no cash bail" reform initiated by a prosecutor. Given the many other jurisdictions that have enacted bail reform agendas including a reduction or elimination of monetary bail,[3] expanded research on the potential adverse effects of such reforms is timely. Closest to our work is the Helland and Tabarrok (2004) evaluation of cash bail, which uses propensity score matching. They find that

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[2]Defendants in Philadelphia typically have to post 10% of the bail amount, so this would mean that defendants have to post $500 or less to get out of jail.

[3]New Jersey has eliminated cash bail almost entirely and California plans to eliminate it in October 2019.

felony defendants released with surety bonds are less likely to miss court appearances than similar defendants released on recognizance, but these results may be partially due to unobservable differences across defendants that weren't accounted for in the matching. Our paper also presents some of the first evidence on the role "progressive prosecutors" can play in bail reform. Despite having no direct control over the bail decision, we find that prosecutors still exert meaningful influence.

The remainder of the paper is organized as follows. In Section 2, we provide some background on the use of cash bail in the United States, and describe the Philadelphia No-Cash-Bail policy. In Section 3, we present our data and empirical strategy. Section 4 presents our main results, and Section 5 concludes.

2 Cash bail: General Background and Practices in Philadelphia

2.1 Cash bail in the United States

Although criminal jurisdictions across the United States vary in the particulars of the pretrial process, there are many commonalities.[4]. After arrest, a defendant is brought to a police station where they are booked, and where they must remain until a judge (or magistrate) has had an opportunity to review their case. At this initial appearance, the judge will determine what conditions of release, if any, are appropriate for the defendant. The judge may take input on this decision from the prosecutor's office or defense counsel, but the final decision is made by the judiciary. Conditions of release may include the payment of monetary bail, an agreement to follow certain conditions set by the court (e.g. curfew, drug testing, check-ins with a pretrial officer, etc.), an agreement to pay a certain amount should the defendant fail to appear in court (unsecured bond), and the promise of a third party (either a professional bail bondsmen or a friend/family member) to supervise and ensure appearance. If the defendant pays the monetary bail amount and/or agrees to the conditions they will be released. If not, they will remain detained pretrial until the disposition of the case.

Monetary bail has long been one of the most dominant conditions of release. The main goal of monetary bail is to ensure that those who are released from jail show up in court for their appointed dates. Monetary bail acts as collateral; if the defendant fails to appear in court, the bail amount will be forfeited. If a defendant cannot afford their bail bond they may borrow it from a professional bail bondsmen. Monetary bail is not supposed to be used either as a de-facto detention order or as a method of preventing pretrial crime. Nonetheless, setting bail amounts at levels that prohibit

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[4]For an overview see (Liu et al., 2018).

release is common. Only about 50% of defendants with monetary bail set are able to pay to secure release, and, among jail inmates awaiting trial, 9/10 are detained on a monetary bond (Cohen and Reaves, 2007).

Critics of the use of monetary bail argue that it is inefficient and can result in race and class based disparities. The inefficiency argument stems from the fact that those who cannot afford to pay will be detained even if they pose a relatively low risk of non-appearance or reoffending, while defendants with greater financial resources may be able to pay for release even if they pose a higher risk. This results in an ineffective use of criminal justice resources. Furthermore, since race and wealth are correlated in the United States, those who are detained solely due to inability to pay bail are likely to be disproportionately people of color. This exacerbates racial disparities in pretrial detention, and, due to the downstream consequences of detention, may exacerbate racial disparities in conviction, sentencing, and future employment.

These concerns have led to a broad based movement to reform bail systems. Dozens of jurisdictions across the United States have implemented, or will soon implement, significant changes to their system of determining pretrial custody and ensuring court appearance. Reducing or eliminating the use of monetary bail is a key component of reform. In 2016, New Jersey essentially eliminated the use of monetary bail. California is poised to do the same in 2019, after the passage of SB10. "Progressive" prosecutors around the country have run on platforms of reducing the use of cash bail, and such policies have already been implemented in many jurisdictions. However, bail reform skeptics have expressed concern that reducing monetary bail could result – or already has resulted – in unwanted consequences such as increasing non-appearance[5] or crime.[6] These concerns have slowed reform efforts in various jurisdictions, and threatens to reverse some reforms that have already been implemented.[7] Thus evidence on how monetary bail impacts appearance rates and pretrial crime is crucially important to the future of bail reform. In this paper, we evaluate the efficacy of monetary bail as a mechanism to improve the functioning of courts: do monetary incentives have a meaningful effect on compliance?

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[5]E.g. according to some reports, non-appearance increased after Harris County stopped detaining misdemeanor pretrial defendants who could not afford monetary bail. http://texasallianceforsafecommunities.org/victims/press-release-tasc-issues-statement-on-rising-failure-to-appear-rates-in-harris-county/

[6]E.g. DA Krasner's bail reform policies have been blamed for increasing homicide rates in Philadelphia. https://6abc.com/head-of-philly-homicide-unit-reassigned-amid-growing-murder-rate/4976017/

[7]E.g. New Jersey's Attorney General has started calling for pretrial detention in an expanded number of cases. https://www.nj.com/politics/index.ssf/2017/05/nj_supreme_court_tightens_bail_reform_rules_for_gu.html

2.2 The pretrial process in Philadelphia

In Philadelphia, when a person is arrested, they are first brought to a local police station where they are booked and placed into a holding cell. The police report associated with the arrest will be sent to the DA's office, where a prosecutor will review the case and determine what, if any, charges to file. Once charges have been filed, the defendant will be interviewed by Pretrial Services. Pretrial Services will make a recommendation for the bail amount taking into account the defendants' charges, criminal history and life circumstances. Their recommendation is not binding and bail decisions are often different (Shubik-Richards and Stemen, 2010). After the pretrial interview, the defendant is ready for the bail hearing. The defendant remains in holding cell at the police station and the bail hearing is held over videoconference. The bail hearing is presided over by a magistrate who is an employee of the judiciary, and representatives of both the DA's office and the public defender's office are present. While the representatives can make suggestions for the appropriate bail amount, the final decision is made by the magistrate. Neither the magistrate nor these representatives are, in general, attorneys.

The bail hearing typically lasts only a minute or two, during which the magistrate reads the charges, schedules the next court date, determines eligibility for public defense, and decides the conditions of release. These conditions include ROR (in which the defendant is released solely on their promise to return to court), bail denied (defendant in jail pretrial), monetary bail (defendant must provide financial collateral to be released), unsecured bail (no need to post any money for release, but if the person does not show up to their court date, they owe the court their bail amount), and non-monetary bail (the defendant must agree to certain conditions, such as pretrial supervision, but does not need to pay monetary bail). If the person fails to pay bail within 4-8 hours of the bail hearing, they will be transported to the local jail. They will remain there until the disposition of the case unless they can procure the bail deposit or can convince a judge to lower it to an amount that is affordable.

Professional bail bondsmen are allowed in Philadelphia, but they are less common than in other jurisdictions. This is because Philadelphia has a deposit system: the defendant is released if they can pay 10% of the total bail amount. If they comply with all release conditions 70% of the deposit will be returned when the case is disposed. However if they fail to appear in court, they owe the court the full bail amount.

2.3 The Philadelphia No-Cash-Bail reform

On November 7th, 2017, Larry Krasner was elected to the position of Philadelphia's district attorney (DA). He ran on a progressive platform, which included goals like

lowering punishments for less serious crimes and reducing the use pretrial detention.[8] However, and importantly for our research design, the exact timing of different reforms was not announced ahead of time.

On February 21st, 2018, DA Krasner announced that his office would stop seeking monetary bail if the lead charge was among a set of 25 low-level offenses.[9] These offenses include both felonies and misdemeanors, and spanned from very low-level offenses, such as non-residential trespassing, to more severe offenses, such as burglaries with no person present, and include several drug charges, such as possession with an intent to deliver. The goal of this reform was to reduce pretrial detention, and to avoid incarcerating defendants because they could not afford low bail amounts. Concretely, this meant that the DA's office would instruct their representatives at the bail hearing to ask that defendants with these lead charges be released on their own recognizance, or to not object if ROR was requested by the defendant's legal representative.

This reform is not the only measure that DA Krasner took to reduce the reach of criminal justice that winter. On Feb. 15th, the DA's office announced a change in charging practices for marijuana possession, retail theft and prostitution. Appendix Figure A1 shows that after that date, the number of charges filed for these offenses dropped. We remove them from our analyses. No other concurrent changes affected the prosecution of low-level offenses, or pretrial detention.[10]

3   Data and empirical strategy

3.1   Data and descriptive statistics

Our data comes from the court records of the Pennsylvania Unified Judicial System. We use web-scraped dockets for cases in which an initial bail hearing was held between January 1st, 2017 and August 13th, 2018, in the Philadelphia Municipal Court. The data contains one observation per criminal case. After dropping marijuana possession, prostitution, and retail theft cases,[11] as well as duplicate cases (i.e. a defendant is brought for multiple cases on the same day),[12] our data contains 47,052 observations.

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[8]His agenda can be found here: https://krasnerforda.com/platform/

[9]The full announcement and list of offenses eligible can be found here: https://phillyda.wordpress.com/2018/02/21/larry-krasner-announces-end-to-cash-bail-in-philadelphia-for-low-level-offenses/

[10]Over the last several years, Philadelphia has introduced several other changes to their pretrial system, such as early bail review, in which a judge reviews bail for cases in which a defendant is unable to pay, and a pilot project of providing pre-bail-hearing public defense to some defendants. However, these changes were implemented more than a year before the reforms evaluated in this paper and should not affect our analysis.

[11]Marijuana possession, retail theft and prostitution cases constitute ∼10% of pre-reform caseload.

[12]8.5% of defendants have multiple cases per day; we omit these due to difficulties in defining the bail type for a defendant with multiple types of bail. Our results are very similar if we include duplicate cases.

Our dataset includes information on the defendant (first and last name, date of birth, gender, race, address, and a unique court identifier), the offenses (date of arrest, charges), the bail hearing (date and time of the bail hearing, type of attorney, initial bail magistrate name, bail type and amount), whether and at what date and time bail was posted, and notes pertaining to each court appearance (including whether the defendant failed to appear). Using this data, we define several other main variables: how much time, if any, a person spent in jail, and whether a person recidivated, recidivated with a serious offense, or had an FTA within four months of their initial court hearing.[13] If the defendant had monetary bail, we define "time spent in jail" as the time between when the initial bail was set and when bail was posted. Technically, however, this includes both time spent in jail and time spent in the police holding cell, since it can take a few hours between the time of the bail hearing and when defendants are transferred to the jail. A person is considered to have spent "at least one night" in jail if there is at least one calendar day difference between when bail was set and posted; they are considered to have spent "at least two nights" in jail if they posted bail two or more calendar days after their initial bail hearing; and to have spent "at least a week" in jail if the bail posting date is at least 7 days after the initial bail hearing.[14] We generate a dummy for "recidivism" which is equal to one if a person with the same first name, last name and date of birth is charged with a new offense within four months of the bail hearing. Our "serious recidivism" variable is defined similarly, except that we only count new charges for homicide or graded felonies of type $1 - 3$.[15] Our FTA variable is equal to one if the defendant fails to appear for at least one court date within four months of the bail hearing. Lastly, we define "eligible cases" as cases that are eligible for the "No-Cash-Bail" policy; in other words, cases for which the lead charge appears on the list of 25 offenses for which the DA's office would no longer request cash bail. Similarly, "ineligible cases" are cases whose lead charge does not appear in that list of 25 offenses.

Table 1 presents descriptive statistics for cases filed before the "No Cash Bail" reform was announced on February 21st. Statistics are shown separately for eligible and ineligible cases. First, note that a majority of cases are eligible for no cash bail: 21,023 of the 33,358 cases in our sample, or 63%, are in the list of 25 offenses for which the Philadelphia DA's office was no longer going to seek monetary bail.[16] This

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[13]We look at a four month window in order to provide a consistent post-bail-hearing time window for all defendants in our sample.

[14]Given that defendants already spent an average of 17 hours (Clark et al., 2011) in the holding cell awaiting the bail hearing, these definitions understate the true amount of time detained.

[15]This excludes, for instance, defendants who are charged only with possession-with-intent-to-deliver.

[16]Overall, and including the case types omitted because of a concurrent change in charging practice, approximately 67% of all cases filed in Philadelphia before the reform would have been eligible for the No-Cash-Bail policy.

includes a significant number (43%) of felonies. Among eligible cases, 47% were already getting ROR before the reform. Only about a quarter of eligible cases led to at least one night in jail, and 16% of eligible defendants spent at least a week in jail. The failure to appear (FTA) rate among eligible cases was 12%, and 9% (2%) of defendants recidivated within four months (for a serious offense). By contrast, ineligible offenses had a much lower ROR rate (10% compared to 47%) and were more likely to be in jail pretrial: 58% spent at least one night in jail, and 44% spent at least a week in jail. These numbers show that the No-Cash-Bail policy was aimed at case types in which both monetary bail rates and detention rates were already relatively low.

3.2 Empirical strategy

As explained in section 2.2, while DA Krasner was elected on a platform to roll back the scope of incarceration, the dates he planned to implement his different policies were not known in advance. We argue that the exact timing of the No-Cash-Bail policy is as good as random. In other words, we assume that the only relevant difference between cases initiated right before the reform and those initiated right after is likelihood of having the prosecutor's office request monetary bail.[17] Thus changes in pretrial outcomes that occur among eligible cases during that time period can be attributed to the No-Cash-Bail policy.

In our main estimation, we use a regression discontinuity (RD) design to estimate sharp changes in outcomes that are concurrent with the February 21st announcement. Note that there have been some questions recently about whether an RD framework can be used when time is the running variable. In particular, Hausman and Rapson (2018) have developed a framework specifically for regression discontinuities in time (RDiT), which describe challenges in interpretation and additional tests to apply when considering changes in time-series data. However, we argue that in our context, even though time is the running variable, it is not susceptible to most of the issues outlined in Hausman and Rapson (2018). Most notably, we are not using time-series data, which alleviates the most serious concerns about auto-correlation. Instead, our data is at the case-level, where the time of the bail hearing is simply one of the case characteristics. We follow the optimal bandwidth approach of Calonico et al. (2014) for our main statistical tests, and offer several robustness tests.

Our identifying assumption – that cases with bail set right before the implementation of the No-Cash-Bail policy are similar to cases that have bail set right after – would be violated if, for instance, there was a concurrent change in policing or charging practices. Figure 1 and Table 2 provides some evidence that this is not the case. First,

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[17]As discussed in the data section, we drop cases that the DA's office decided to stop prosecuting around that time since our identifying assumptions are not likely to hold for this group.

we find no evidence of a change in the daily number of "eligible" cases filed before or after February 21st. This suggests that it is unlikely that police decreased the arrest rate as a result of the No-Cash-Bail policy.[18] Second, the regression discontinuity results shown in Table 2, and presented graphically in Figure 1, indicate that the types of cases originated before and after the reform are very similar in terms of offense type and defendant characteristics. This provides further reassurance that no concurrent changes affected caseload composition around the time of the No-Cash-Bail reform.

We complement our regression discontinuity design with a series of secondary analyses. First, we use ineligible cases as a "placebo" comparison group. Since these offenses are not subject to the same decree one would expect to see little or no changes in outcomes for these cases. We also use a difference-in-differences approach, where we compare pre/post-reform changes across eligible and ineligible cases. The advantage of this strategy is that it can help account for possible other contextual changes that could be affecting both eligible and ineligible cases.

4   Results

This section presents the main results of the paper: empirical evidence on the impacts of the No-Cash-Bail policy. The first section focuses on court outcomes: bail decisions, and time spent in jail. The second section focuses on accountability measures: FTA and recidivism. The final section demonstrates that our results are robust to alternative specifications.

4.1   Court outcomes: bail type and time spent in jail

We begin by testing whether the No-Cash-Bail reform actually resulted in a decreased use of cash bail for eligible offenses. This is not trivial, for a couple of reasons. First, it is possible that the DA's representative at the bail hearing might not have followed the rules set by DA Krasner. Second, while the prosecutor's representative can suggest bail amounts, the ultimate decision is made by a bail magistrate.

The impact of the No-Cash-Bail reform on bail amounts is shown visually in Figure 2; RD estimates are shown in Table 3.[19] In Table 3 – as well as in Tables 4 and 5 – the odd columns include controls for covariates, while the even columns do not. First, it appears that there is a 12 percentage point (23% relative to the pre-reform

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[18]It is conceivable that police decreased the arrest rate but prosecutors increased charging rates, however these changes would have had to exactly cancel one another out.

[19]Unless specified otherwise, the covariates that we include are for: race, offense status and class, age at arrest, gender, day of the week, bail hearing shift, type of attorney (public defender or other), and initial bail magistrate.

mean) increase in the likelihood that a defendant is released on their own recognizance. However, this increase in ROR is at least partially the result of a substitution from unsecured bail or release with non-monetary conditions. Release without the payment of monetary collateral (i.e. release on either ROR, unsecured or non-monetary bail) only increases by 8 percentage points (14%). Most of the decrease in monetary bail comes from a decline in bail amounts of $5,000 or less (a 7 percentage point, or 41% decline).

In Philadelphia, defendants have to post 10% of their bail to be released, meaning that the No-Cash-Bail reform mostly changed monetary conditions for defendants needing to post $500 or less. Some defendants who were released on ROR as a result of DA Krasner's policy would otherwise have been released after payment of monetary bail, attenuating the extent to which the policy affected detention rates. Table 4 and Figure 3 present changes for our three pretrial detention measures: spending at least one night in jail; spending at least two nights in jail; or spending at least one week in jail. The only significant difference is in the fraction of people spending at least one night in jail, where we find a drop of about 5 percentage points, or about a 25% decrease. The direction is similar for spending at least two nights or one week in jail, but the change is not significant at the standard 5% levels. [20]

While the No-Cash-Bail policy did not result in a large decrease in the pretrial detention rate, even avoiding a single night in a holding cell could have important implications for a defendant. Similarly, relieving the burden of having to procure a $500 dollar deposit provides benefit that could be of particular value for low income defendants.

4.2   Accountability measures: FTA and recidivism

Results from section 4.1 suggest that the main effect of the No-Cash-Bail reform was to reduce the conditions of release – most notably, to reduce the use of monetary bail and the financial accountability that arises from it. The reform did not have a detectable effect on long incarceration periods, but it did result in a substantial increase in the number of people being expected to show up to court with no formal accountability mechanisms. Since the primary reason for the use of monetary bail and pretrial release conditions is to increase court compliance, this policy gives us an opportunity to see if these tools are effective.

To do so, we look at three main outcomes: failing to show up to one's court date, recidivism, and serious recidivism within four months of one's initial court date. Table

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[20]If Krasner's reform had less of an effect on longer incarceration periods that could partly have been a result of previous bail reform measures. In particular, many Philadelphia defendants who fail to pay bail within five days of the bail hearing are eligible for early bail review and a potential reduction in bail.

5 and Figure 4 present these results. In spite of the reduced financial accountability that the No-Cash-Bail reform entailed, we find no detectable changes in any of these measures of pretrial misconduct. The magnitude of the coefficients are small, vary in sign, and are statistically insignificant in all specifications. This is striking, given the prevalence of monetary bail as a purported method of increasing compliance in the courts.

4.3   Alternative specifications and robustness checks

We test the robustness of our results using several strategies. First we conduct a placebo analysis in which we test the impacts of the No-Cash-Bail reform on "ineligible" cases: cases in which the DA did not recommend changes in the use of monetary bail. If there were other concurrent changes in law enforcement or pretrial practice that would confound our main analysis, we would expect to see changes in outcomes for this placebo group. Consistent with the scope of DA Krasner's decree, we find no evidence of changes in bail amounts or pretrial detention among case types that were ineligible for the No-Cash-Bail policy. Furthermore, we find no detectable change in FTA or recidivism for ineligible defendants, suggesting that there were no concurrent changes in the policy context that could have led us to overstate or understate how accountability affects compliance among eligible defendants. (These results are shown in Appendix Figures A2-A4, and in Appendix Tables A1-A3.)

Tables A4 and A5 present an alternative estimation of the effect of the No-Cash-Bail policy on our main outcomes of interest. Using ineligible offenses as a control group, we apply a difference-in-differences approach: comparing changes in outcomes for eligible vs. ineligible offenses, before and after February 21st. Overall, the results are similar to those estimated with RD. We estimate an 11 percentage point increase in the use of ROR, a 7 percentage point increase in releases with no collateral, and a 4 percentage point decrease in monetary bail of $5,000 or less. The point estimates are slightly smaller for jail outcomes, but go in the same direction. We find no statistically detectable effects on FTA, recidivism, or violent recidivism. Tables A6-A8 test the robustness of our main RD results (ROR, at least one night in jail, and FTA) to different specifications. In Column 1, we use a quadratic instead of a local linear regression; in Columns 2 and 3, we implement two versions of a "donut" RD where we drop both the day after the reform and a 6-day time window around the reform; and in Columns 4 and 5, we vary the bandwidths for the RD estimation at 15 and 60 days, instead of the 30 day bandwidth shown in Tables 3-5. Again, the results are generally similar using these different functional forms. Tables A9-A11 test robustness of the main results to different methods of calculating standard errors. The top row of each table is the same as is shown Tables 3-5; the second row shows bias-corrected standard

errors and the third row shows robust standard errors.

Finally, Tables A12 and A13 present results by race (black versus non-black) and by offense type (drug offenses vs non-drug offenses). In general, we don't find statistically significant differences in effect sizes across these categories.

5   Conclusion

The analyses presented here offer several contributions. First, they demonstrate that "progressive" prosecutors can influence bail outcomes even if their office has no direct control over the bail decision. Thus participation in local prosecutorial elections is one viable avenue for bail reform.

Second, since most of the impact of the No-Cash-Bail reform was to increase the number of people released without monetary bail or other conditions, the policy provides a unique opportunity to evaluate how pretrial accountability mechanisms affect compliance. We find no detectable evidence that the decreased use of monetary bail, unsecured bond, and release on conditions had adverse effects on appearance rates or recidivism. By providing some of the first evidence on how reducing monetary bail affects pretrial misconduct, our results should ease concerns that bail reform will have large adverse effects on FTA and crime. Monetary bail has long been the mainstay tool of ensuring pretrial compliance, but a better understanding of why people fail to comply may be needed in order to design effective pretrial policy (Fishbane et al., 2019).

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6   Tables and figures

Table 1: Descriptive statistics for cases before the No Cash Bail reform.

	(1) Eligible cases		(2) Ineligible cases	
	mean	sd	mean	sd
Defendant characteristics				
Age	33.94	11.50	33.04	11.62
Male	0.85	0.36	0.82	0.39
Felony	0.43	0.49	0.65	0.48
Initial Bail Type				
ROR	0.47	0.50	0.10	0.30
Non-monetary or unsecured	0.14	0.34	0.08	0.27
Monetary	0.39	0.49	0.81	0.39
Jail				
1+ Night in Jail	0.24	0.43	0.58	0.49
2+ Nights in Jail	0.20	0.40	0.50	0.50
1+ Week in Jail	0.16	0.37	0.44	0.50
FTA and Recidivism				
FTA	0.10	0.30	0.04	0.20
Recidivism	0.16	0.37	0.10	0.31
Serious Recidivism	0.04	0.20	0.04	0.20
Observations	21023		12335	

Table 2: Balance checks for eligible cases.

	(1) Felony	(2) Drug cases	(3) Black	(4) Male	(5) Age
After Feb. 21	0.012	0.055	0.0063	-0.015	-1.82*
	(0.031)	(0.036)	(0.027)	(0.022)	(0.84)
Mean pre Feb. 21	0.413	0.617	0.491	0.850	33.877
Effective RD obs.	4832	3312	6513	5220	3723
Estimation BW	48	34	66	52	36
Bias BW	74	54	104	84	72

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses.

Table 3: Initial bail outcomes for eligible cases. Odd columns include controls for covariates; even columns do not.

	ROR		No Collateral		Bail under 5000		Bail over 5000	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
After Feb. 21	0.11***	0.12***	0.090***	0.081*	-0.077***	-0.069**	-0.0061	0.027
	(0.030)	(0.035)	(0.027)	(0.035)	(0.022)	(0.022)	(0.022)	(0.025)
Mean pre Feb. 21	0.523	0.513	0.572	0.577	0.167	0.172	0.180	0.183
Effective RD obs.	2698	3723	2766	3584	3828	4522	3180	4330
Estimation BW	27	37	29	36	37	44	33	42
Bias BW	50	56	53	56	60	68	56	72

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses.

Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Table 4: Jail outcomes for eligible cases estimates. Odd columns include controls for covariates and even columns do not.

	Jail: 1+Nights		Jail: 2+Nights		Jail: 1+Week	
	(1)	(2)	(3)	(4)	(5)	(6)
After Feb. 21	-0.054**	-0.047*	-0.034	-0.032	-0.032	-0.028
	(0.020)	(0.022)	(0.018)	(0.019)	(0.019)	(0.021)
Mean before Feb. 21	0.225	0.226	0.190	0.191	0.148	0.147
Effective RD observations	5265	5886	6452	6625	4807	4679
Bandwidth for estimation	53	60	65	68	48	47
Bandwidth for bias	85	95	107	106	74	72

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Table 5: FTA and recidivism for eligible cases estimates. Odd columns include controls for covariates and even columns do not.

|	FTA		Recidivism		Serious Recidivism	
	(1)	(2)	(3)	(4)	(5)	(6)
After Feb. 21	0.018	0.019	0.018	0.026	-0.015	-0.0013
	(0.016)	(0.020)	(0.022)	(0.022)	(0.014)	(0.011)
Mean before Feb. 21	0.102	0.099	0.160	0.160	0.032	0.031
Effective RD observations	6973	4756	5431	5682	3426	5682
Bandwidth for estimation	72	47	55	58	34	58
Bandwidth for bias	109	73	90	89	61	103

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Figure 1: Discontinuities in number of cases and defendant characteristics.
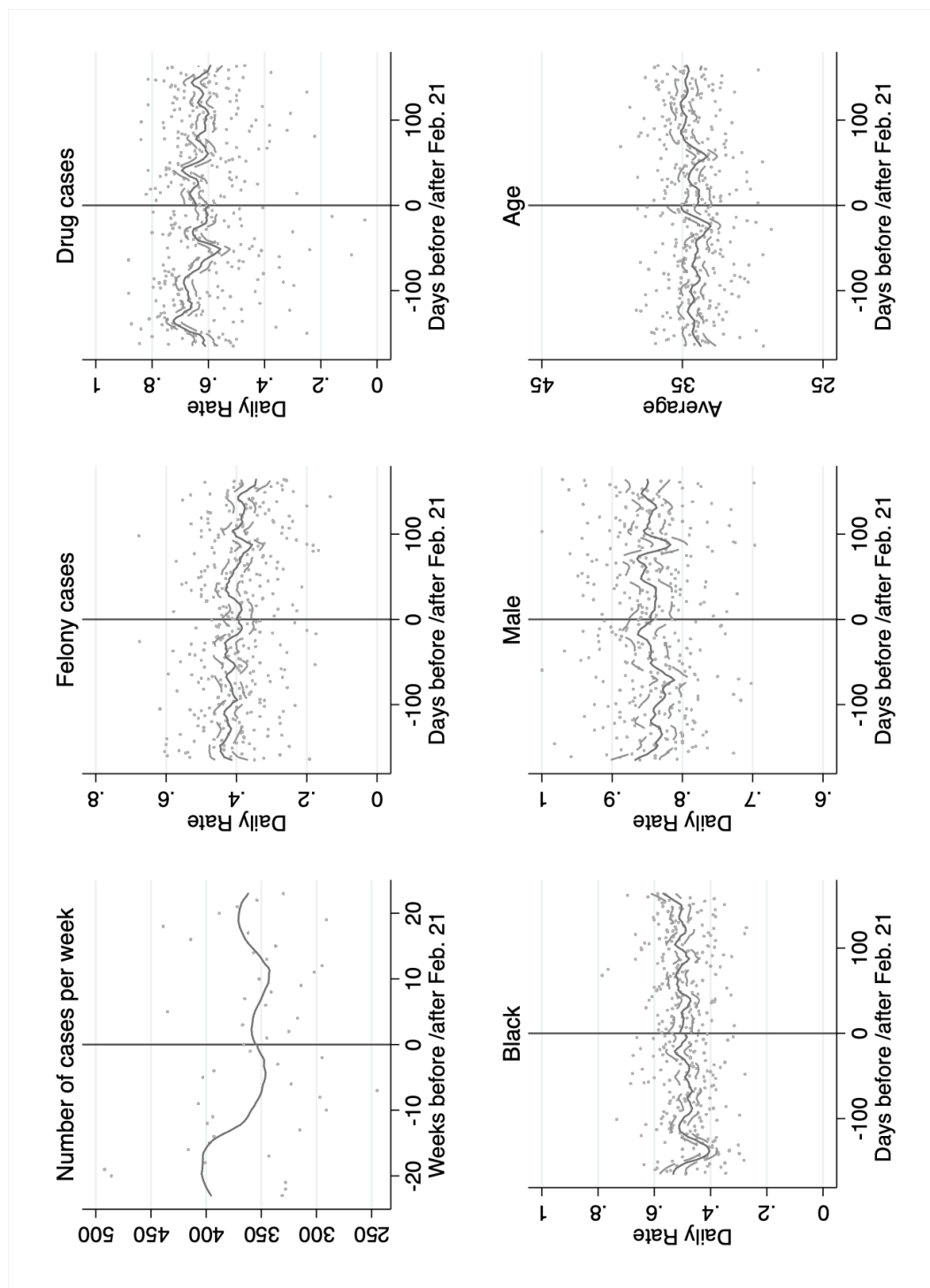
Note: Other than case counts, which are at the weekly level, these figures present a scatter plot of daily averages for each outcome, and local-polynomial regression lines before and after the February 21st announcement, based on the daily data at the monthly level. The dashed lines present the 95% confidence interval.

Figure 2: Bail outcomes for eligible cases.
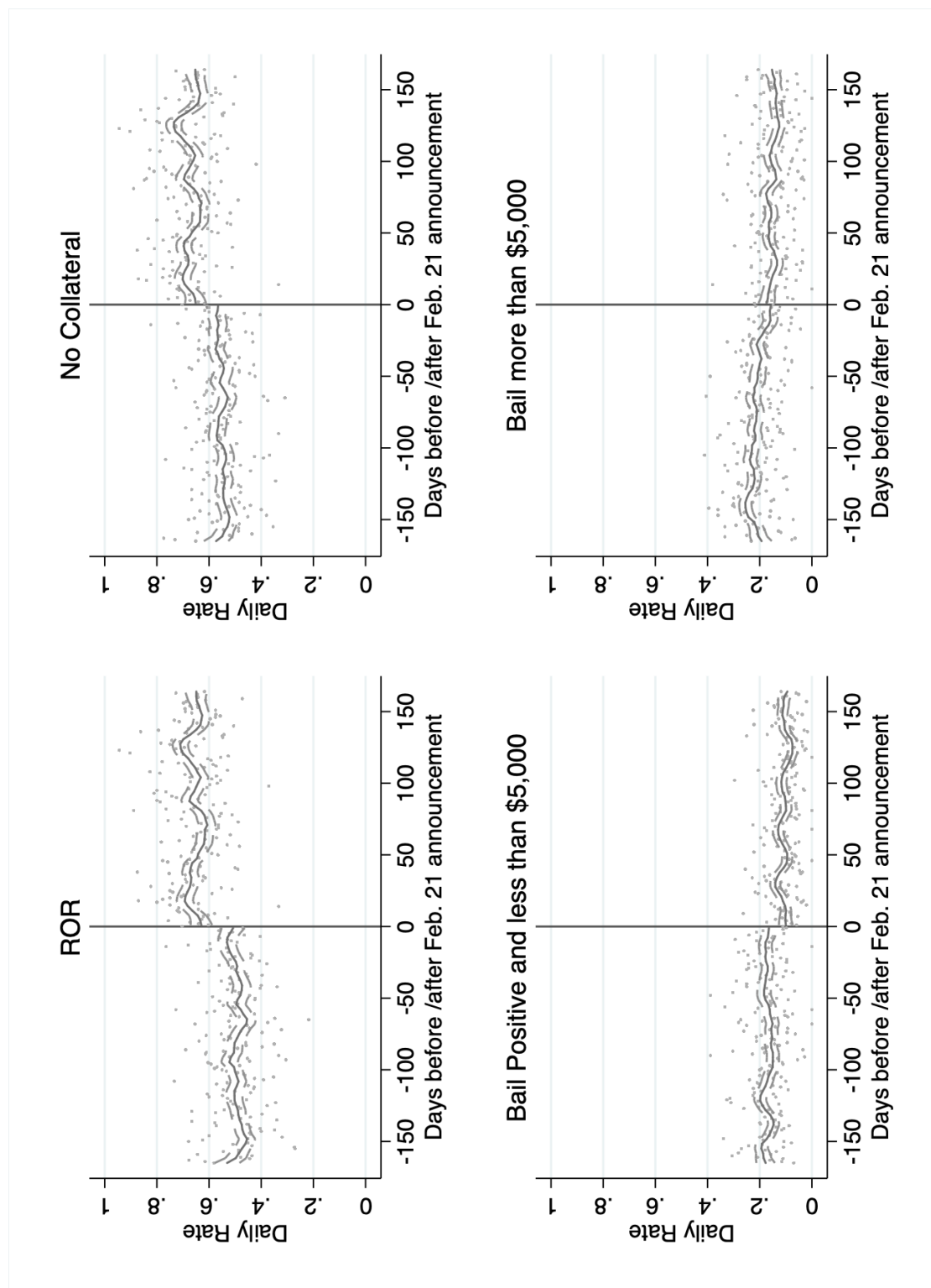
Note: These figures present a scatter plot of daily averages for each outcome, and local-polynomial regression lines before and after the February 21st announcement, based on the daily data at the monthly level. The dashed lines present the 95% confidence interval.

Figure 3: Jail outcomes for eligible cases.
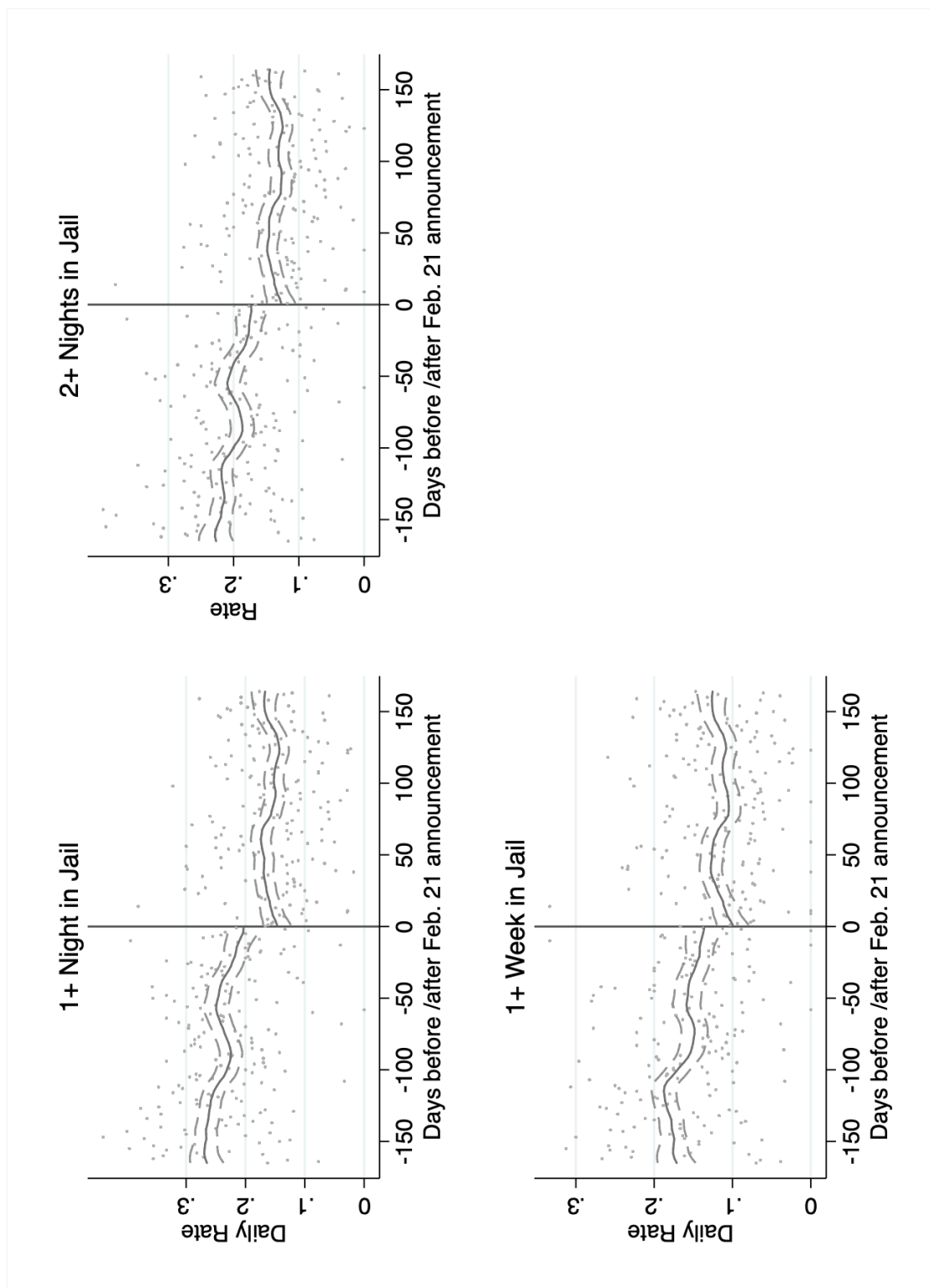
Note: These figures present a scatter plot of daily averages for each outcome, and local-polynomial regression lines before and after the February 21st announcement, based on the daily data at the monthly level. The dashed lines present the 95% confidence interval.

Figure 4: FTA and recidivism for eligible cases.
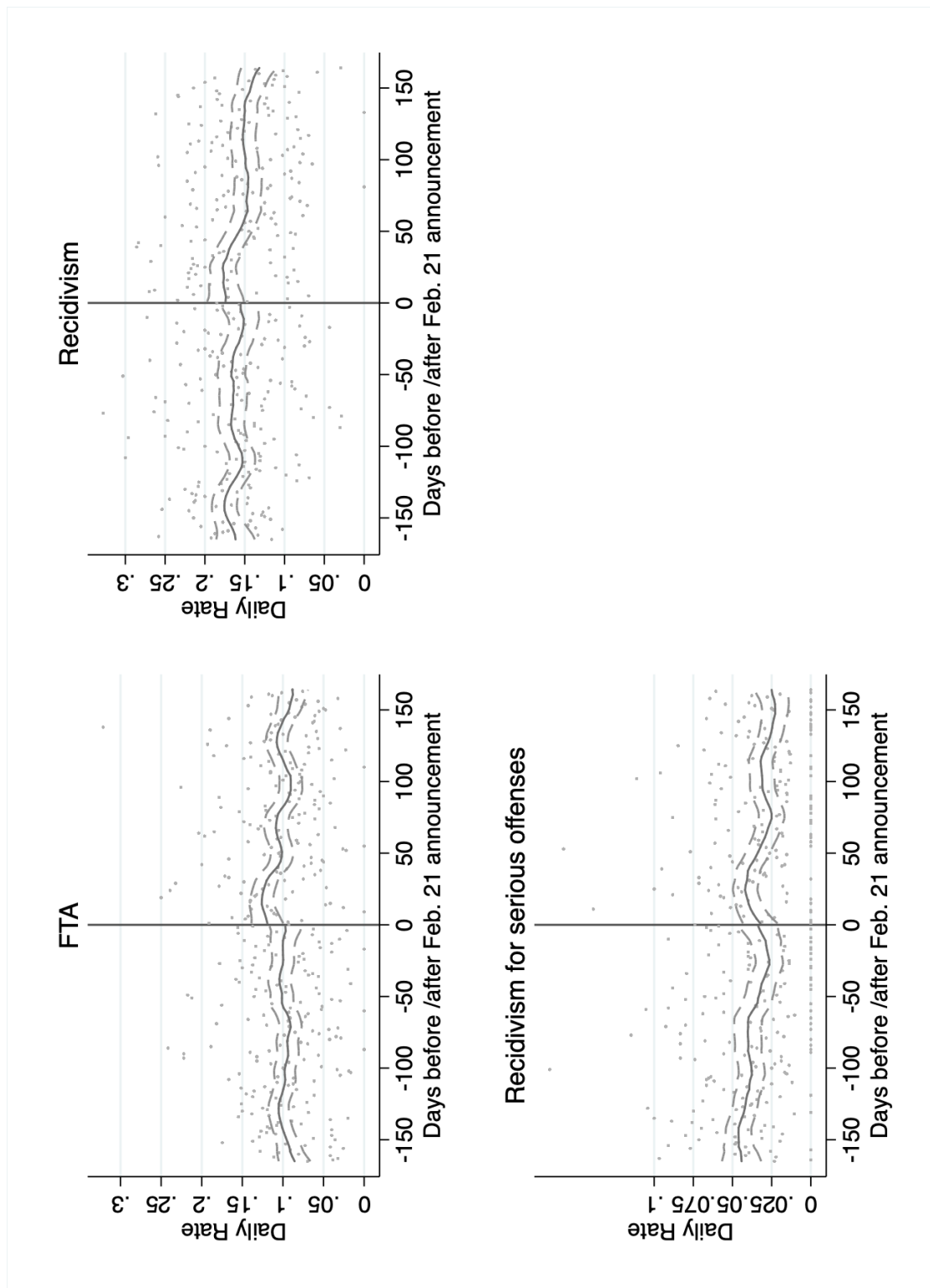
Note: These figures present a scatter plot of daily averages for each outcome, and local-polynomial regression lines before and after the February 21st announcement, based on the daily data at the monthly level. The dashed lines present the 95% confidence interval.

7 Appendix

Table A1: Initial bail outcomes for ineligible cases. Odd columns include controls for covariates; even columns do not.

	ROR		No Collateral		Bail under 5000		Bail over 5000	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
After Feb. 21	-0.035	-0.022	-0.050*	-0.033	-0.015	-0.017	0.089**	0.068
	(0.021)	(0.024)	(0.022)	(0.025)	(0.032)	(0.032)	(0.034)	(0.039)
Mean pre Feb. 21	0.105	0.104	0.105	0.108	0.261	0.261	0.516	0.524
Effective RD obs.	3557	3061	3169	3061	3045	3503	2247	3120
Estimation BW	63	55	57	54	55	63	40	55
Bias BW	103	84	99	86	79	93	79	91

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses.

Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Table A2: Jail outcomes for ineligible cases estimates. Odd columns include controls for covariates and even columns do not.

	Jail 1+Nights		Jail: 2+Nights		Jail: 1+Week	
	(1)	(2)	(3)	(4)	(5)	(6)
After Feb. 21	0.099*	0.058	0.072	0.044	0.087*	0.065
	(0.046)	(0.046)	(0.045)	(0.045)	(0.043)	(0.046)
Mean before Feb. 21	0.550	0.565	0.473	0.480	0.408	0.415
Effective RD observations	1802	2158	1802	2199	1802	1927
Bandwidth for estimation	32	38	33	39	33	35
Bandwidth for bias	58	67	59	67	59	63

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Table A3: FTA and recidivism for ineligible cases estimates. Odd columns include controls for covariates and even columns do not.

	FTA		Recidivism		Serious Recidivism	
	(1)	(2)	(3)	(4)	(5)	(6)
After Feb. 21	0.020	0.013	0.013	0.00043	-0.0021	-0.00066
	(0.017)	(0.017)	(0.026)	(0.022)	(0.017)	(0.016)
Mean before Feb. 21	0.048	0.048	0.115	0.114	0.046	0.045
Effective RD observations	2475	2639	2186	3286	2247	2813
Bandwidth for estimation	44	47	40	59	40	50
Bandwidth for bias	67	78	73	95	70	78

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Table A4: Difference in difference estimates: initial bail outcomes, eligible vs. ineligible cases, pre-post Feb. 21.

	(1) ROR	(2) No Collateral	(3) Bail under 5000	(4) Bail over 5000
Eligible*After Feb. 21	0.11***	0.070***	-0.037***	-0.023**
	(0.0083)	(0.0080)	(0.0091)	(0.0085)
After Feb. 21	0.027***	0.033***	-0.028***	-0.030***
	(0.0068)	(0.0065)	(0.0074)	(0.0069)
Eligible Case	0.42***	0.53***	0.12**	-0.75***
	(0.039)	(0.037)	(0.043)	(0.040)
Mean DV: Eligible cases, Pre Feb. 21	0.494	0.552	0.168	0.215

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses.

Controls are for offense statute and class, race, age, gender,

day of week, shift, and initial bail commissioner.

Table A5: Difference in difference estimates: jail, FTA and recidivism, eligible vs. ineligible cases, pre-post Feb. 21

	(1) Jail: 1+ Nights	(2) Jail: 2+ Nights	(3) Jail: 1+ week	(4) FTA	(5) Recidivism	(6) Serious Recidivism
Eligible*After Feb. 21	-0.025*	-0.019*	-0.0081	0.0063	-0.00029	-0.0013
	(0.0100)	(0.0098)	(0.0094)	(0.0069)	(0.0088)	(0.0048)
After Feb. 21	-0.059***	-0.044***	-0.035***	-0.00031	-0.0075	-0.0057
	(0.0081)	(0.0080)	(0.0077)	(0.0056)	(0.0072)	(0.0039)
Eligible Case	-0.49***	-0.41***	-0.38***	-0.016	0.063	0.039
	(0.047)	(0.046)	(0.044)	(0.032)	(0.042)	(0.023)
Mean DV: Eligible cases, Pre Feb. 21	0.241	0.201	0.163	0.098	0.163	0.038

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses.

Controls are for offense statute and class, race, age, gender,

day of week, shift, and initial bail commissioner.

Table A6: Robustness checks: ROR

	(1) Quadratic	(2) Donut: Drop Feb. 21	(3) Donut: Drop 3 days around Feb. 21	(4) 15 day BW	(5) 60 day BW
After Feb. 21	0.13***	0.096**	0.070	0.13*	0.097**
	(0.038)	(0.031)	(0.038)	(0.061)	(0.030)
Mean before Feb. 21	0.514	0.522	0.522	0.543	0.506
Effective RD observations	3922	2712	2531	1397	5808
Bandwidth for estimation	38	29	30	15	60
Bandwidth for bias	58	50	54	15	60

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner.

Table A7: Robustness checks: 1+ Night in Jail

	(1) Quadratic	(2) Donut: Drop Feb. 21	(3) Donut: Drop 3 days around Feb. 21	(4) 15 day BW	(5) 60 day BW
After Feb. 21	-0.071*	-0.058**	-0.099***	0.059	-0.067*
	(0.030)	(0.022)	(0.026)	(0.057)	(0.028)
Mean before Feb. 21	0.225	0.220	0.220	0.205	0.227
Effective RD observations	5051	4679	4295	1397	5808
Bandwidth for estimation	51	47	47	15	60
Bandwidth for bias	76	74	83	15	60

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner.

Table A8: Robustness checks: FTA

	(1) Quadratic	(2) Donut: Drop Feb. 21	(3) Donut: Drop 3 days around Feb. 21	(4) 15 day BW	(5) 60 day BW
After Feb. 21	0.013	0.021	0.029	-0.054	0.0023
	(0.023)	(0.017)	(0.025)	(0.059)	(0.026)
Mean before Feb. 21	0.100	0.102	0.102	0.098	0.102
Effective RD observations	7299	6803	3719	1397	5808
Bandwidth for estimation	75	71	41	15	60
Bandwidth for bias	102	108	71	15	60

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner.

Table A9: Initial bail outcomes for eligible cases. Odd columns include controls for covariates; even columns do not.

	ROR		No Collateral		Bail under 5000		Bail over 5000	
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Conventional	0.11***	0.12***	0.090***	0.081*	-0.077***	-0.069**	-0.0061	0.027
	(0.030)	(0.035)	(0.027)	(0.035)	(0.022)	(0.022)	(0.022)	(0.025)
Bias-corrected	0.12***	0.11**	0.098***	0.075*	-0.080***	-0.070**	-0.013	0.035
	(0.030)	(0.035)	(0.027)	(0.035)	(0.022)	(0.022)	(0.022)	(0.025)
Robust	0.12***	0.11**	0.098**	0.075	-0.080**	-0.070**	-0.013	0.035
	(0.035)	(0.042)	(0.031)	(0.042)	(0.026)	(0.026)	(0.026)	(0.029)
Mean pre Feb. 21	0.523	0.513	0.572	0.577	0.167	0.172	0.180	0.183
Effective RD obs.	2698	3723	2766	3584	3828	4522	3180	4330
Estimation BW	27	37	29	36	37	44	33	42
Bias BW	50	56	53	56	60	68	56	72

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses.

Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Table A10: Jail outcomes for eligible cases estimates. Odd columns include controls for covariates and even columns do not.

	Jail: 1+Nights		Jail: 2+Nights		Jail: 1+Week	
	(1)	(2)	(3)	(4)	(5)	(6)
Conventional	-0.054**	-0.047*	-0.034	-0.032	-0.032	-0.028
	(0.020)	(0.022)	(0.018)	(0.019)	(0.019)	(0.021)
Bias-corrected	-0.052*	-0.044*	-0.033	-0.031	-0.033	-0.028
	(0.020)	(0.022)	(0.018)	(0.019)	(0.019)	(0.021)
Robust	-0.052*	-0.044	-0.033	-0.031	-0.033	-0.028
	(0.024)	(0.026)	(0.021)	(0.023)	(0.023)	(0.025)
Mean before Feb. 21	0.225	0.226	0.190	0.191	0.148	0.147
Effective RD observations	5265	5886	6452	6625	4807	4679
Bandwidth for estimation	53	60	65	68	48	47
Bandwidth for bias	85	95	107	106	74	72

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Table A11: FTA and recidivism for eligible cases estimates. Odd columns include controls for covariates and even columns do not.

	FTA		Recidivism		Serious Recidivism	
	(1)	(2)	(3)	(4)	(5)	(6)
Conventional	0.018	0.019	-0.0044	0.020	-0.011	-0.011
	(0.016)	(0.020)	(0.027)	(0.023)	(0.013)	(0.013)
Bias-corrected	0.020	0.016	-0.014	0.015	-0.017	-0.016
	(0.016)	(0.020)	(0.027)	(0.023)	(0.013)	(0.013)
Robust	0.020	0.016	-0.014	0.015	-0.017	-0.016
	(0.019)	(0.024)	(0.031)	(0.028)	(0.015)	(0.015)
Mean before Feb. 21	0.102	0.099	0.154	0.159	0.031	0.031
Effective RD observations	6973	4756	3426	4832	3828	4100
Bandwidth for estimation	72	47	35	48	38	40
Bandwidth for bias	109	73	58	75	67	75

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, race, age, gender, day of week, shift, and initial bail commissioner

Table A12: Heterogeneity by race.

|	(1) ROR Black	(2) ROR non-Black	(3) Jail Black	(4) Jail non-Black	(5) FTA Black	(6) FTA non-Black
After Feb. 21	0.061	0.14***	-0.057	-0.050	0.011	0.026
	(0.036)	(0.039)	(0.031)	(0.027)	(0.024)	(0.027)
Mean pre Feb. 21	0.463	0.564	0.247	0.205	0.072	0.132
Effective RD obs.	2010	1521	2577	2662	2892	2847
Estimation BW	41	32	52	53	59	57
Bias BW	63	55	84	83	88	88

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense statute and class, age, gender, day of week, shift, and initial bail commissioner

Table A13: Heterogeneity by offense: drugs vs. non-drug offenses.

|	(1) ROR drugs	(2) ROR non-drugs	(3) Jail drugs	(4) Jail non-drugs	(5) FTA drugs	(6) FTA non-drugs
After Feb. 21	0.12***	0.078	-0.065*	-0.046	0.012	0.027
	(0.034)	(0.045)	(0.028)	(0.033)	(0.024)	(0.025)
Mean pre Feb. 21	0.475	0.557	0.240	0.194	0.125	0.066
Effective RD obs.	1718	1730	3102	1992	3849	2037
Estimation BW	28	48	49	56	62	57
Bias BW	46	71	76	84	98	89

* $p < 0.05$, ** $p < 0.01$, *** $p < 0.001$. Standard errors in parentheses. Controls are for offense class, race, age, gender, day of week, shift, and initial bail commissioner

Figure A1: Changes in number of cannabis, prostitution and retail theft cases after the Feb. 15th announcement not to prosecute these kinds of cases anymore. For the remainder of our analyses, we drop these cases.
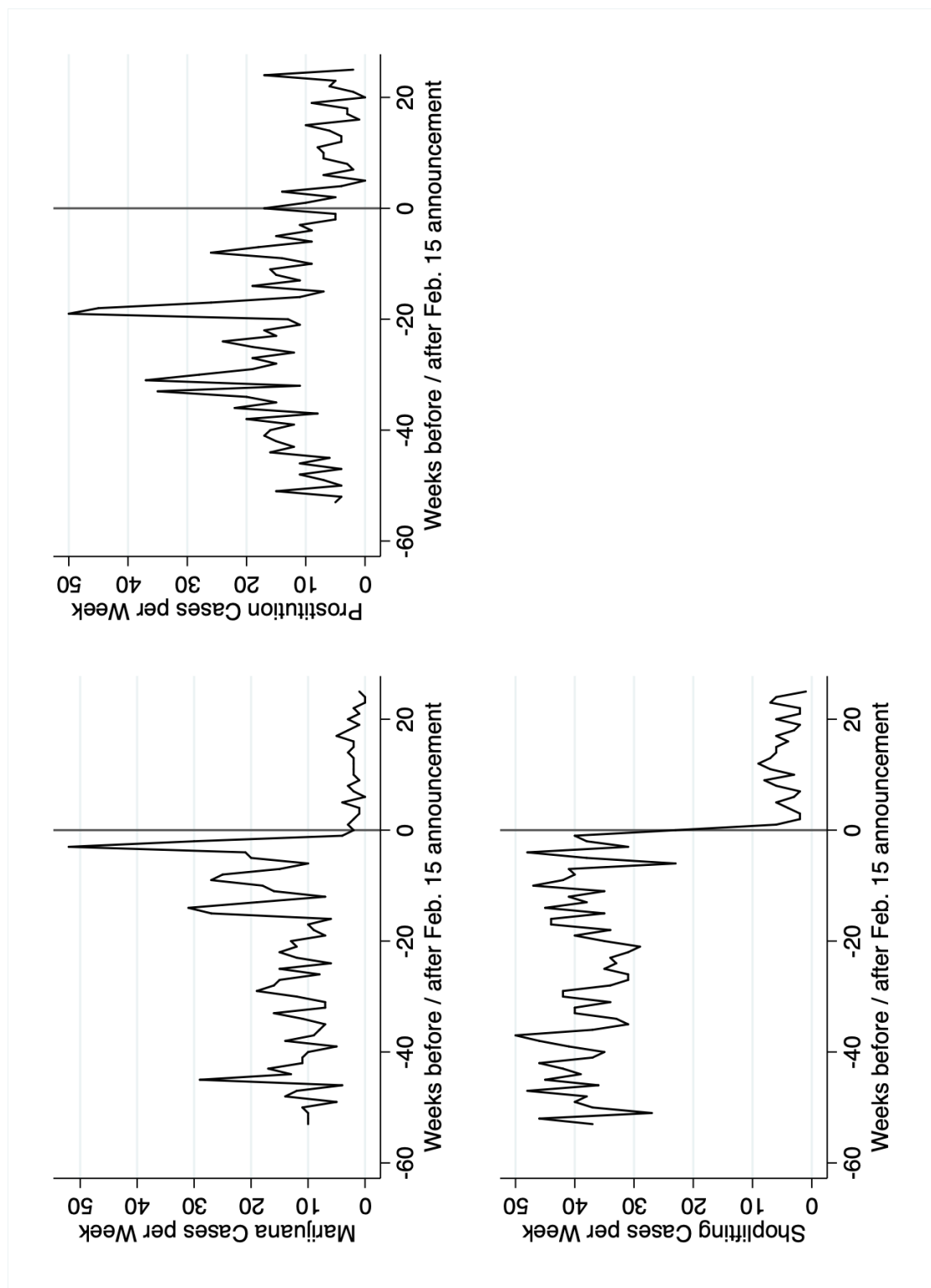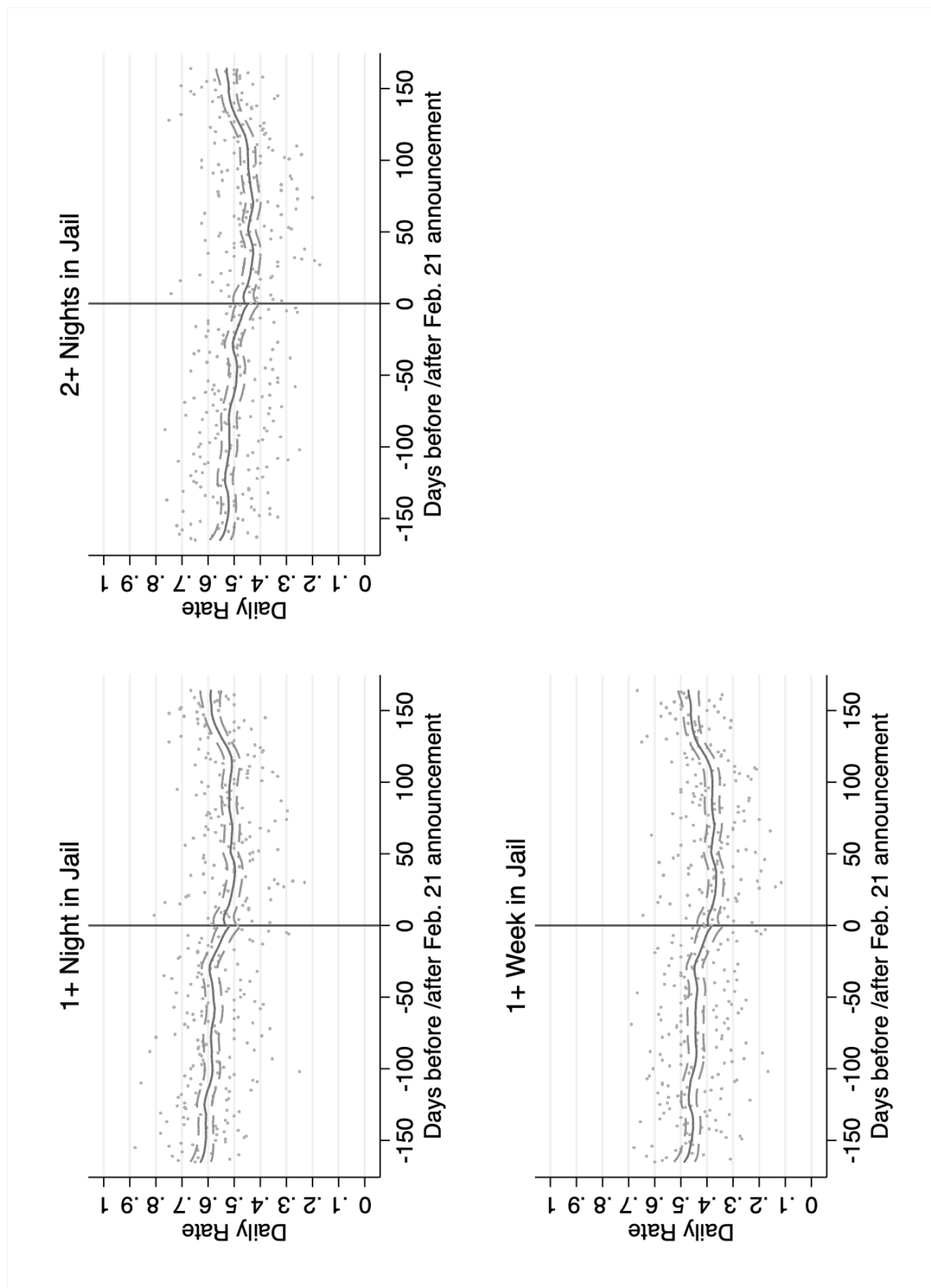
Figure A2: Bail outcomes for ineligible cases.
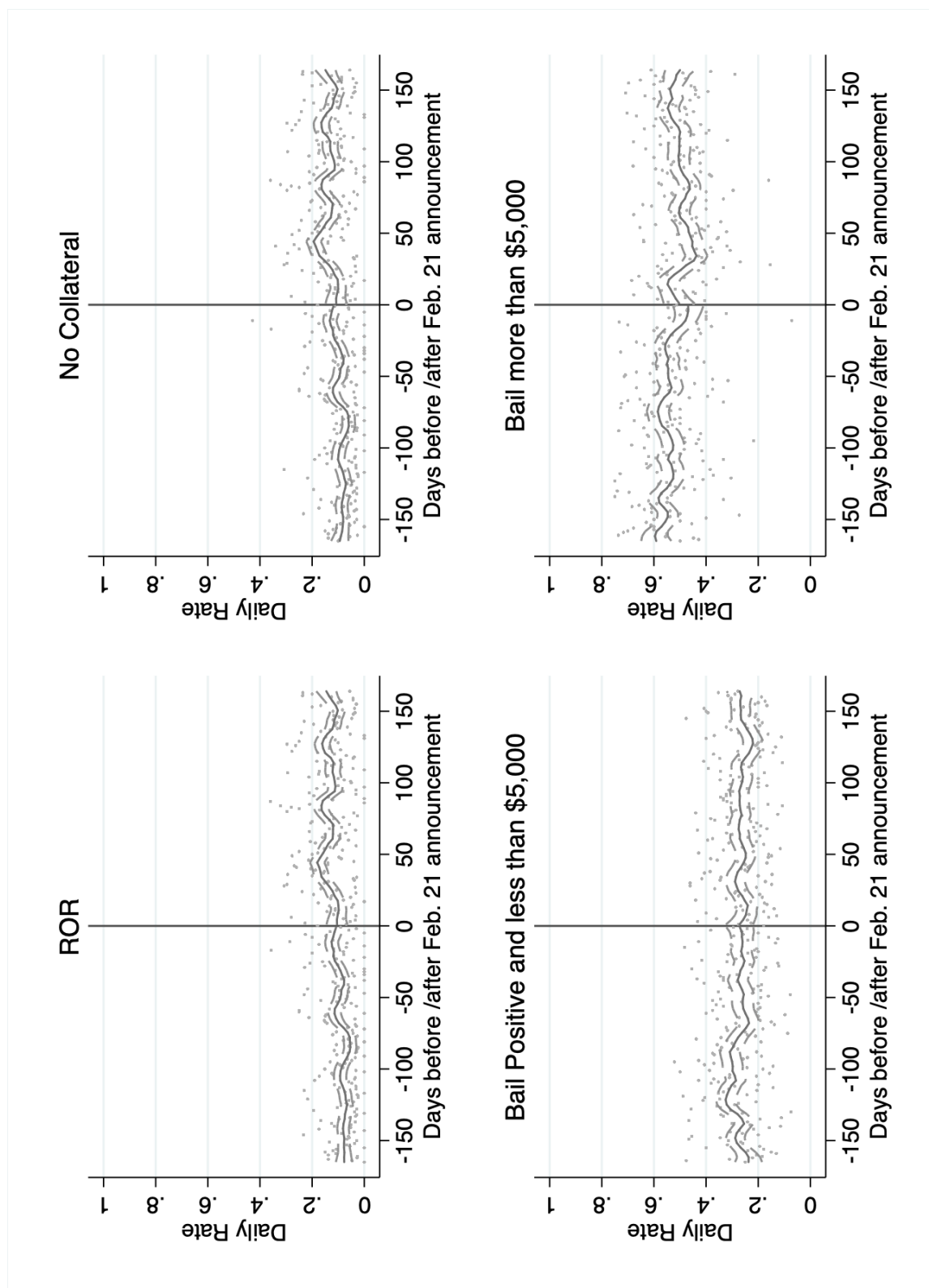
Figure A3: Jail outcomes for ineligible cases.

Figure A4: FTA and recidivism for ineligible cases.